

Application No. 09/312,073
Amendment and Response to Notice of
Non-Compliant Amendment dated March 16, 2004
Reply to Notice... of February 20, 2004

REMARKS

Applicants have received a Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on February 20, 2004, indicating that the Amendment filed on December 17, 2003, was deficient in that "claim 1 should have been independent".¹

On March 2, 2004, Applicants discussed this Notice with the Examiner in charge of this application, and pointed out that in view of M.P.E.P. § 608.01(n)(IV), it would not be proper to object to claim 1 only on grounds claim 1 was not independent.

The Examiner, after reviewing this application, agreed, but then pointed out that the language of claim 1 did not accurately reflect the revisions made earlier during prosecution of this application, and that this was why the December 17 Amendment had been deemed non-compliant. The Examiner is thanked for such clarification.

To expedite examination, Applicants have cancelled claim 1, as well as claims 3, 4 and 6-10, which appear to suffer from the same deficiency. The subject matter of these cancelled claims has been presented in new claims 126-133. No new matter has been added.

Accordingly, claims 11-39, 41-65, 67-73, 83-90, 92, 93, 95-101, 103, and 106-133 are now pending in this application and of these claims, claims 11-14, 36-39, 41-57, 62-65, 67-73, 83-90, 92, 93, 95, 96 and 114-125 have been allowed. Claims 15, 36 (allowed), 57 (allowed), 58, 62 (allowed), 87 (allowed), 92 (allowed), 95 (allowed) and 97 remain independent.

¹ As a general matter, Applicants submit it is acceptable for a dependent claim to precede the independent claim upon which it is based. In this regard, M.P.E.P. § 608.01(n)(IV) states in part:

During prosecution, the order of claims may change and be in conflict with the requirement that dependent claims refer to a preceding claim. Accordingly, the numbering of dependent claims and the numbers of preceding claims referred to in dependent claims should be carefully checked when claims are renumbered upon allowance.

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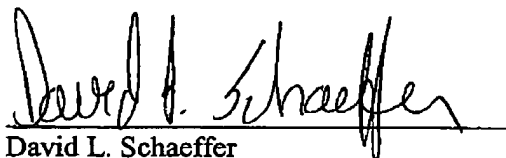
It should be noted that now-cancelled claims 1, 3, 4 and 6-10 were allowed in the Office Action mailed on September 17, 2003. Consequently, new claims 126-133, which correspond to claims 1, 3, 4 and 6-10, respectively, are considered to be allowable for the same reasons.

With regard to the claims not yet found by the Examiner to be allowable, Applicants respectfully submit that those claims are allowable for the reasons set forth in the December 17 Amendment, which reasons are incorporated by reference herein.

Applicants have made a diligent effort to place this application in condition for allowance and submit that the claims are in condition for allowance. If for any reason, however, the Examiner should deem that this application is not in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below to resolve any outstanding issues prior to issuing a further Office Action.

No fees are believed to be presently due. Nevertheless, the Commissioner is authorized to charge any fee now or hereafter due in connection with the prosecution of this application to Deposit Account No. 19-4709.

Respectfully submitted,



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March 16, 2004

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MESSAGE

Applicants submit herewith the following:

1. Amendment and Response to Notice of Non-Compliant Amendment (23 pgs); and
2. Certificate of Transmission by Facsimile (1 pg).